

# AGENDA

## Denver Board of Water Commissioners

Video Conference: <http://zoom.us/join>, Meeting ID: 949 8097 4640 - Passcode: 094017 or

Dial in (669) 900-6833 - Meeting ID: 949 8097 4640 - Passcode: 094017

**Wednesday, October 13, 2021 – 9:00 a.m.**

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### I. INTRODUCTORY BUSINESS

#### A. Call to Order and Determination of Quorum

#### B. Public Comment and Communications

At this point in the agenda, the Board may allow members of the public to address the Board on any item of interest within the jurisdiction of the Board, and not on the agenda for action. Speakers wishing to address a specific Action Item will be invited to address the Board when the item is being considered. Three minutes are allowed for each person unless the President determines otherwise.

1. Distributor Communications
2. Citizen Advisory Committee Communications

#### C. Ceremonies, Awards and Introductions

1. 2021 Sustainable Water Utility Management Award from the Association of Metropolitan Water Agencies (AMWA)
2. 2021 IMPACT Award from the Urban Land Institute

### II. ACTION ITEMS

#### A. Consent Items

Items listed below are considered routine and may be enacted by one motion and vote. If any Board member desires discussion beyond explanatory questions, or corrections to the Minutes, the President may order that item to be considered in a separate motion and vote.

1. Minutes from September 8, 2021
2. Minutes from September 22, 2021
3. Minutes from September 27, 2021 Special Meeting
4. Purchase of Storage Space in the Chatfield Storage Reallocation Project – Contract 505013

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**B. Individual Approval Items**

1. Legal Representation for Denver Water Employee and Commissioner in Small Claims Matter

**III. POLICY MATTERS**

<b>A. Raw Water Rates</b>	Angela Bricmont	30 minutes
<b>B. National Western Project Overview and Update</b>	Nicole Poncelet	20 minutes

**IV. EXECUTIVE UPDATE**

- A. CEO Update
- B. CFO Update
- C. Operations Update

**V. BRIEFING PAPERS & REPORTS**

- A. Briefing Paper
- B. Report

**VI. ADJOURNMENT**

**VII. TRUSTEE MATTERS**

**VIII. EXECUTIVE SESSION**

The Board may adjourn the regular meeting and reconvene in executive session on topics authorized by D.R.M.C Sec. 2-34.

- A. Confidential Report

# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: October 13, 2021

Board Item: II-A-4

## Purchase of Storage Space in the Chatfield Storage Reallocation Project Contract 505013

Action by Consent

Individual Action

### **Purpose and Background:**

The purpose of this Board item is to approve the purchase of 1,633 acre-feet of storage in the Chatfield Storage Reallocation Project from the State of Colorado, Colorado Water Conservation Board (CWCB) through Contract 505013.

Chatfield Reservoir, located southwest of Denver, was completed in 1975 with the primary purpose of flood control and is operated by the U.S. Army Corps of Engineers (Corps). Approximately 27,000 acre-feet of the storage space was initially designated for non-flood control purposes. This non-flood control capacity was subsequently allocated by the State to Denver Water in 1979.

Denver Water stores water in Chatfield Reservoir pursuant to its prior agreements with the State of Colorado and decreed water rights from the South Platte and Colorado Rivers.

In 2007, Congress authorized the reallocation of a portion of Chatfield Reservoir's flood control pool to joint flood control-conservation purposes (Storage Space). On May 29, 2014, the Corps issued its Record of Decision authorizing the reallocation of 20,600 acre-feet of Storage Space for such purposes.

Denver Water has negotiated with the CWCB to acquire a portion of the Storage Space in the Chatfield Reallocation Project. At its March 2021 meeting, the CWCB approved the sale of 1,633 acre-feet of Storage Space to Denver Water. The price for the Storage Space is \$14,878,964.01 (\$9,111.42/acre-foot), which includes the pro rata cost of the Chatfield Reallocation Project, a Chatfield Reallocation Project participant fee, and a transfer fee.

### **Budget and Schedule:**

The total amount of this Purchase Agreement is \$14,878,964.01, plus necessary closing costs which are expected to be less than \$5,000.00. Funds for this contract will come from the 2021 budget for the Chatfield Reallocation Orphan Shares Business Unit, which has sufficient funds needed in 2021. It is anticipated that closing of the purchase will occur in late 2021. In subsequent years the annual Operation and Maintenance Expenses and Repair, Rehabilitation, Reconstruction and Replacement Costs will be budgeted in the Raw Water Supply Business Unit.

### **S/MWBE Information:**

Small/Minority and Women-owned Business Enterprise goals are not applicable for this item.

### **Recommendation:**

Staff recommends that the Board: (1) approve Contract 505013 with State of Colorado, Colorado Water Conservation Board for purchase of 1,633 acre-feet of storage space in the Chatfield Reallocation Storage Project for a total contract amount of \$14,878,964.01, plus necessary closing costs; and

(2) authorize the CEO/Manager and staff to execute agreements and documents, as approved by the Office of General Counsel, to complete the transaction; and (3) delegate to the CEO/Manager the authority to expend annual Operation and Maintenance Expenses and Repair, Rehabilitation, Reconstruction and Replacement Costs each year up to the current signing authority for the CEO/Manager.

**Approvals:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager              | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer                           |
| <input type="checkbox"/> Julie Anderson, Chief of Staff                         | <input checked="" type="checkbox"/> Richard B. Marsicek, Chief Water Resource Strategy Officer |
| <input type="checkbox"/> Jessica R. Brody, General Counsel                      | <input type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer                          |
| <input checked="" type="checkbox"/> Angela C. Bricmont, Chief Financial Officer | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer                             |

# DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: October 13, 2021

Board Item: II-B-1

## Legal Representation for Denver Water Employee and Commissioner in Small Claims Matter

Action by Consent

Individual Action

### **Purpose and Background:**

On September 7, 2021, a Park County resident filed a Notice, Claim, and Summons (Claim) in Small Claims Court in Park County against Commissioner Gary Reiff and Denver Water employee Benjamin Mezger, alleging breach of a verbal contract and seeking \$7,500 in lost wages. The resident subsequently moved to amend the Claim to add Denver Water as a defendant.

Although the Claim does not contain any factual allegations, a preliminary investigation into the matter has shown that Commissioner Reiff had no involvement in this matter and was named solely due to his position as President of the Board of Water Commissioners. Section 10.1.5 of the Denver Charter authorizes the Board to exercise broad powers, including the power to “defend all litigation affecting its powers and duties.”

It is also apparent that Mr. Mezger was acting within the scope of his employment as a Denver Water employee regarding this matter. Where a Denver Water employee is named in litigation, section 7-15(2) of the Personnel Policies states that the Board will provide legal representation and pay any judgment or settlement for claims against the employee during the performance of the employee’s duties and within the scope of the employment. Under this policy, the General Counsel is charged with determining if this section applies, and if so, will recommend that the Board provide legal representation and indemnification to the employee. In this case, the General Counsel has concluded that Mr. Mezger was acting properly within the scope of employment and, thus, that he is eligible for defense and indemnification.

### **Recommendation:**

Staff recommends that the Board: (1) authorize legal representation by the Office of General Counsel for Commissioner Reiff and Mr. Mezger; and (2) indemnify both individuals for any award of damages or costs against them in this matter, whether resulting from judgement or settlement.

### **Approvals:**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager    | <input checked="" type="checkbox"/> Brian D. Good, Chief Administrative Officer     |
| <input checked="" type="checkbox"/> Julie Anderson, Chief of Staff    | <input type="checkbox"/> Richard B. Marsicek, Chief Water Resource Strategy Officer |
| <input checked="" type="checkbox"/> Jessica R. Brody, General Counsel | <input type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer               |
| <input type="checkbox"/> Angela C. Bricmont, Chief Financial Officer  | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer                  |

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